

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
SOUTHEASTERN DIVISION

|   |   |                                  |
|---|---|----------------------------------|
| Darrell W. Clifford,                        | ) |                                  |
|   | ) |                                  |
| Plaintiff,                                  | ) | <b>AMENDED</b>                   |
|   | ) | <b>ORDER ADOPTING</b>            |
| vs.   | ) | <b>REPORT AND RECOMMENDATION</b> |
|   | ) | <b>AND DISMISSING CASE</b>       |
| Bryant Mueller, Sheriff of Rollette County; | ) |                                  |
| James Metcalf, Rolette County               | ) | Civil File No. 3:07-cv-44        |
| Commissioner; and Arne Boyum, Rollette      | ) |                                  |
| County State's Attorney,                    | ) |                                  |
|   | ) |                                  |
| Defendants.                                 | ) |                                  |

Before the Court is Plaintiff's request to proceed *in forma pauperis* ("IFP") (Doc. #2). The Court has received a Report and Recommendation (Doc. #4) from the Honorable Karen K. Klein, United States Magistrate Judge, pursuant to 28 U.S.C. § 636, recommending that Plaintiff's request to proceed IFP be denied. Additionally, Magistrate Judge Klein recommended denying as moot Clifford's "Motion" (Doc. #3). No party has filed an objection to this recommendation within the requisite time period. Local Rule 72.1(E)(4).

The Court has reviewed the Report and Recommendation, along with the entire file, and finds that the Magistrate Judge's position is correct. Accordingly, the Court hereby adopts the Report and Recommendation in its entirety. For the reasons set forth therein, Plaintiff's request to proceed IFP is **DENIED**, and his Motion (Doc. #3) is **DENIED** as **MOOT**.

Furthermore, because the issues presented to the Court in this case are identical to those presented in Clifford v. Schuetzle, 1:03-cv-1, this Court is not required to entertain Plaintiff's application. 28 U.S.C. § 2244(a). Plaintiff must move the Court of Appeals for an order

authorizing this Court to review such an application in order for it to be considered. 28 U.S.C. § 2244(b)(3). Therefore, this action is **DISMISSED** without prejudice, and the Clerk shall enter judgment accordingly.

**IT IS SO ORDERED.**

Dated this 21st day of May, 2007.

/s/ Ralph R. Erickson  
Ralph R. Erickson, District Judge  
United States District Court